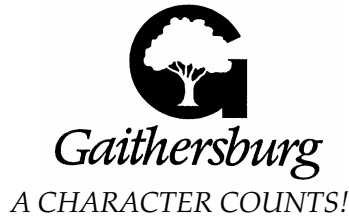


REVISED



CITY OF GAITHERSBURG
MINUTES OF A SEPCIAL CITY COUNCIL MEETING
MONDAY, OCTOBER 9, 2006

A meeting of the Mayor and City Council was called to order at 7:30 p.m., Mayor Katz presiding. Council Members present: Alster, Marraffa, Schlichting, Sesma. Council Member Absent: Edens. Staff present: City Manager Humpton, Assistant City Managers Felton and Tomasello, Planning and Code Administration Director Ossont, Community Planning Director Schwarz, Planner Patula, Public Works, Parks Maintenance and Engineering (PWPME) Services Director Mumpower, City Attorney Borten and Executive Assistant Stokes. Planning Commissioners present for the joint public hearing: Bauer, Hopkins, Kaufman, Levy and Winborne.

I. PLEDGE OF ALLEGIANCE

The Pledge was led by Cathy Drzyzgula, Historic Preservation Advisory Committee Member.

II. JOINT PUBLIC HEARING

T-377 - A Consolidated Public Hearing on an Ordinance to Amend Chapter 24 of the City Code Entitled "Zoning" so as to Create New Article XV Entitled "Adequate Public Facilities" so as to Require That Public Facilities be Deemed Adequate to Serve Development Which is Subject to Various Land Use and Development Approvals and to Set Forth Applicable Procedures And Standards for the Determination Thereof and a Regulation Establishing Traffic Impact Study

Assistant City Manager Felton stated that the above joint public hearing was advertised in the *Gaithersburg Gazette* on both September 15 and 20, 2006. During the joint work session held January 31, 2006, staff was directed to draft Adequate Public Facilities Standards for traffic impacts, school capacity, water and sewer, and fire and emergency services. Due to the level of complexity of the ordinance, a decision was made to handle traffic impact standards through regulations. He stated that a key issue not resolved during the work session was how budgeted, but not built, school capacity is credited. He further stated that the City of Rockville has a stricter standard and gives capacity credit only to projects that are programmed to be built within two-years. Montgomery County Public Schools (MCPS) believes that Rockville's standards are too restrictive and recommended that the Adequate Public Facilities Ordinance (APFO) for the City of Gaithersburg recognize capacity for any project included in the six-year MCPS Educational Facilities Master Plan and Capital Improvements Program. He referred to the draft ordinance stating that it reflects the two-year standard, but that the Mayor and City Council have the option of changing this standard to recognize capacity that is scheduled to be constructed in the MCPS Capital Budget out years (up to six-years). **Council Member Sesma questioned whether the City received official documentation justifying the six-year standard of MCPS and whether or not it is reasonable. Mr. Felton responded that during several conversations, Mr. Crispell stated that a project usually does not come on line within the two-year period following approval. Council Member Sesma stated that MCPS revises their Educational Facilities Master Plan through a two-year Capital Improvement Plan process suggesting that the six-year Master Plan may not provide adequate information for the City to rely on for its own planning process and questioned whether or not the two-year standard is appropriate. Staff was directed to obtain an official written explanation from MCPS stating whether support for the six-year standard is MCPS Policy or Mr. Crispell's opinion.**

PWPME Services Director Mumpower stated that staff received guidance as mentioned above to handle applications for development approvals through traffic impact standards adopted by regulation as authorized by Section 2-10 of the City Code. Mr. Mumpower reviewed the highlights of the Traffic Impact Study Standards and how a traffic study is determined for a proposed development. He stated that traffic counts for proposed developments are done between the hours of 7 – 9 a.m. and 4 - 6 p.m. which are considered the heaviest travel periods. Mr. Mumpower further stated that for residential and office, most of the peaks are three to four hours in the morning and three to four hours in the evening. He added that developers tend to look at the worst existing traffic. In response to questions, he stated that it is more efficient for the developer to be responsible for the engineering, stormwater management, architectural design, structural and traffic analysis for a project and staff would then follow-up with a review of the materials submitted.

Planning and Code Administration Director Ossont reviewed the ordinance with added language “fire flow” following the words deemed adequate in the water and sewer service subsection and clarified the permit approval by Washington Suburban Sanitary Commission (WSSC) of water and sewer services for a project. Under the fire and emergency subsection, he stated that at the request of Montgomery County Fire and Rescue, staff included in the definition of a response time, receiving, processing, and traveling to the site of an emergency. In reference to response times, he stated that many jurisdictions calculate it differently and that it varies due to the City’s logistics. Mr. Ossont stated that the ordinance is based on Montgomery County’s information. He further stated that the County would like to have a six minute response time, but that is based on an additional 45 stations in Montgomery County. He noted that the City’s draft ordinance is based on what Rockville is doing. Mayor Katz asked staff to further investigate and determine the current response time in Gaithersburg.

Council Vice President Schlichting asked Mr. Ossont if an APFO that is more restrictive than the APFO of the surrounding county which has more land area and less infrastructure, whether it is consistent with sound planning policies and smart growth principles. Mr. Ossont responded that there are some conflicting principles which were discussed at the work session.

Speakers from the public:

1. *Jud Ashman, 46 Napa Valley Road*, expressed support for the APFO stating it represents an important commitment to the quality of life for the citizens. He stated that the cluster’s position is that the City asks for a formal request from MCPS on determining school capacity. He stated that there has been a delay in funding of various area schools for renovations. He expressed support for the two-year standard for school capacity.
2. *Scott Wallace, Linowes and Blocher, representing Boston Properties*, stated that the proposed APFO would be applicable for the Washingtonian site and other projects. He asked that the APFO have specific language that would address any confusion that may arise for the Mayor and City Council, Planning Commission and also amongst the public in regards to the terms and development rights granted pursuant to the existing annexation agreements.
3. *Richard Arkin, 121 Selby Street*, expressed support for an APFO in the City. He agreed in response to the question above from Council Vice President Schlichting that an APFO that is more restrictive than an APFO for the surrounding parts of the county and other jurisdictions nearby are inappropriate. He stated that the ordinance is based on factors that are beyond the control of the City Council and applicant. Asked that relief be put in place for a waiver of an APFO. He asked for additional fail safes in the APFO so that development can move forward.
4. *Cathy Drzyzgula, 16 Walker Avenue*, addressed school capacity issues and expressed support for the two-year time frame and opposed the six-year time frame.

There were no other speakers at the hearing.

Staff suggested the Planning Commission closed their record on October 25, 2006 in anticipation of a

recommendation to the Mayor and City Council on November 1, 2006. Mayor and City Council to hold their record open until 5 p.m. on November 2, 2006, to receive the recommendation with Policy Discussion anticipated on November 6, 2006.

Motion was made by Commissioner Levy, seconded by Commissioner Winborne, to close the Planning Commission record on T-377, October 25, 2006, 5 p.m.

Vote: 5-0

Motion was made by Council Member Marraffa, seconded by Council Member Alster, to close the City Council record on T-377, November 2, 2006, 5 p.m.

Vote: 4-0

Motion was made by Council Member Marraffa, seconded by Council Member Sesma, to close the City Council record on T-377, traffic impact study regulation on November 2, 2006, 5 p.m.

Vote: 4-0

RECESSED THE MAYOR AND COUNCIL SPECIAL MEETING AT 8:09 P.M.
FOR A HISTORIC DISTRICT COMMISSION MEETING AND RECONVENED AT 9:06 P.M.

III. FROM THE MAYOR AND CITY COUNCIL/ANNOUNCEMENTS

Council Vice President Schlichting

Gave a brief statement regarding the scheduled special work session to discuss the proposed employment center site at the Festival at Muddy Branch Shopping Center on Thursday, October 12, 2006. He disclosed that the shopping center is leased and managed by JBG Rosenfeld Retail which 50 percent is owned by JBG Properties. He stated that he is a principal and part owner of JBG Properties, therefore, the City Attorney has advised him not to participate in the discussions for such proposed site. He made it clear that he has not, nor will he have, any discussions with anyone at JBG Rosenfeld Retail concerning the proposed site selection under consideration.

Mayor Katz

Announced the following:

- Gaithersburg Historic District Commission to attend on Tuesday, October 10, 2006, the MAHDC joint training with the City of Rockville and the Montgomery County Historic Preservation Commission.
- Special Work Session on Thursday, October 12, 2006, for an employment center at the Festival at Muddy Branch Shopping Center.
- Regular meeting scheduled for Monday, October 16, 2006. He added that all meeting begin at 7:30 p.m. in the Council Chambers at City Hall.
- Gave notice that the Mayor and City Council plan to conduct a closed executive session on Monday, October 16, 2006, to consult with legal counsel and staff on a pending court matter.

IV. ADJOURNMENT

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 9:13 p.m.

Respectfully submitted,

Doris R. Stokes

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Executive Assistant